HARVARD

LAW REVIEW.

VOL. XV. MAY, 1901. NO. 1

THE ENGLISH REPORTS, 1292–1865.

THE serious problem presented by the multiplicity of reports seems destined to be solved, like most legal problems, piecemeal. Lord Bacon's early plan of systematic revision was revived in modern times under auspices which insured entire success. Lord Westbury's project involved the revision and expurgation of the reports; he proposed "to weed them of decisions that are in contradiction with one another; where there are opposing decisions, to settle those which ought to remain; and to cleanse out and get rid of all matters that are not warranted by the present state of the law, or applicable to the existing condition of society." It must ever be a matter for sincere regret that this great scheme of official revision and correction, under the guidance of such an acute mind, should have failed of accomplishment. Part of this plan is being realized in our own day through private enterprise. In the Revised Reports, edited by Sir Frederick Pollock, we are to have a republication, from the nine hundred volumes of English reports between 1785 and 1865, of all cases that are still of practical utility. Valuable as this series is certain to be, its preparation involves only the exercise of judicious selection, for the original reports during the period covered are, with few exceptions, accurate and reliable. The latest undertaking, in which a beginning has just been made, is a reprint, in one hundred and fifty uniform volumes, of the whole body of English reports from the Year Books to the Term Reports. The work is to be published under the editorial

supervision of an experienced lawyer, with the assistance of a consultative committee comprising among its members three of the most scholarly English judges of the day. If this editorial equipment is not merely nominal, it is inconceivable that it should be organized for the simple purpose of a verbatim reprint. Yet the first volume of the projected series gives little indication of original work beyond the usual cross-references and other purely mechanical helps. If this undertaking shall serve considerations of economy alone, its sponsors will miss a rare opportunity to render a genuine service to legal scholarship. It is curious that while adherence to judicial precedent was unfailingly recognized the preservation of such precedents should have been for centuries in so precarious a state; it is nevertheless a fact that the thoroughly reliable reporters prior to Lord Mansfield's time may be counted upon the fingers of one hand. Still, it is possible to add immensely to the accuracy and value of the early reports by reference to the vast mass of contemporary material now available. Much of this material has been brought to light and published in recent years by royal commission and by the Selden and other learned societies; a large proportion remains in manuscript, but is quite accessible. The extent to which it would be advisable to collate, annotate, and supplement the early reports with reference to these sources of information is a matter upon which opinion will naturally differ, but professional opinion will probably be unanimous in deprecating a reprint of these volumes in their present state without any reference to such opportunities for improvement.

Even the Year Books, which seem to have been, in later years at least, the work of official reporters, are replete with errors, both of commission and omission. Most of them were published after a fashion as early as the sixteenth century; but the lawyers of that day generally took their information at second hand, through the medium of Fitzherbert's Abridgment. The edition now commonly used was printed, with little evidence of care or intelligent supervision, in 1678–79. Through the industry and scholarship of Messrs. Horwood and Pike, who have since published the Year Books of Edward I. and some of Edward II., we are enabled to compare a good edition with a poor one, and the result may be said to justify the labor. Aside from the Norman-French jargon in which they are mostly written, and the consequent difficulty of understanding them aright, the very informal nature of the proceedings which they record is often confusing. In form these reports chronicle a running fire of statement, comment, and criti-

cism between judges and counsel until an issue is finally reached, when the parties are ready for trial. This didactic process often brings out legal conceptions more clearly than the formal Latin record of the settled pleadings and judgment, but the discussion is so informal that it is not always easy to distinguish the disputants. Moreover, the reporters have an unfortunate habit of breaking off abruptly upon the formation of an issue, giving us no intimation of the final disposition of the case. By reference to the voluminous plea rolls and to the register of original writs many of these substantial omissions might be supplied. In the Year Books emphasis is laid upon pleading and technical forms; knowledge of the matters of substance in which we are now most interested is assumed. The plea rolls, on the other hand, often contain the very information which the Year Books omit, for the judgments there recorded often disclose the grounds upon which they are based, and it is only by bringing the two together that anything like a complete report of the case may be obtained. The Year Books close, for some unexplained reason, in the twenty-eighth year of the reign of Henry VIII.; but the reports which follow stand in even greater need of correction and annotation.

From the last Year Book, in 1537, to the year 1865, there were no official reports. This important work was dependent for more than three centuries upon private enterprise. Toward the end of the eighteenth century these private reports become fairly accurate and complete, but the long period from 1537 to 1785 is precariously covered by more than one hundred reporters of various degrees of merit. A few of them, like Plowden, Coke, and Saunders, have long enjoyed an intrinsic authority; others are quite worthless; all are subject to limitations which should never be lost sight of in relying upon their authority as judicial precedents.

During the century following the abandonment of the Year Books private reports multiplied slowly. Down to the time of the Commonwealth the only reports in print, beside certain Year Books, were Plowden, Dyer, Keilway, Benloe and Dalison, the first eleven parts of Coke, Davies, Hobart, and Bellewe's collection from the Year Books. But during the forty years of political strife from the Commonwealth to the Revolution more than fifty volumes of so-called reports were published; twenty-three of them appeared during the short life of the Commonwealth.[1] As a class

[1] The list includes Aleyn, J. Bridgman, Carter, Goldbolt, Gouldsborough, Hetley, Hutton, Keble, Lane, Latch, Ley, March, Noy, Owen, Popham, Saville, Siderfin, Tothill, Winch, beside Anderson, New Benloe, Brownlow, Bulstrode, Calthrop, Carey,

these reports are accurately described by Sir Harbottle Grimston, afterward master of the rolls, in an "Address to the Students of the Common Laws of England," published in 1657:—

"A multitude of flying reports, whose authors were as uncertain as the times when taken, have of late surreptitiously crept forth. We have been entertained with barren and unwarranted products, *infelix folium ex steriles avenae*, which not only tends to the depraving of the first grounds and reason of the young practitioner, who by such false lights are misled, but also to the contempt of divers of our former grave and learned justices, whose honored and revered names have in some of said books been abused and invocated to patronize the indigested crudities of these plagiaries; the wisdom, gravity, and justice of our present justices not deeming or deigning them the least approbation or countenance in any of their courts."

"The press," says the reporter Style in his preface, "hath been very fertile in this our age, and hath brought forth many, if not too many, births of this nature, but how legitimate most of them are let the learned judge. This I am sure of: there is not a father alive to own many of them."

The license of the press prompted the enactment soon after the Restoration of a licensing act, requiring, among other things, that all books concerning the common law of the realm should be printed only upon the special allowance of the lord chancellor or the judges, or by their appointment. This act undoubtedly accounts for the prefatory passports to some of the subsequent reports. There is a significant difference in their phraseology. The Year Books are not only "allowed" by the twelve judges, but also "recommended to all students of the law." Sir Mathew Hale adds to the license for Rolle's reports that they are "very good." While the judges often certify to the learning and skill of the reputed author, they seldom state that they have examined the work, or express any opinion as to its authenticity. At all events this licensing act, which expired in 1692, did not materially improve the standard of reporting; some of the eighteenth century reports are quite as bad as any of their predecessors. "See the inconveniences of these scambling reports," said Chief Justice Holt in Slater *v.* May,[1] referring to the fourth Modern; "they will make

Choyce Cases in Chancery, the twelfth and thirteenth parts of Coke, Clayton, Croke, Jenkins, W. Jones, Leonard, Littleton, Maynard's Year Books of Edward I. and Edward II., the first Modern, Moore, Palmer, Rolle, Saunders, Style, Vaughan, and Yelverton. The first group comprises some of the most worthless of all the reports, and few names in the list carry much weight.

[1] 2 Ld. Raymond 1072.

us to appear to posterity for a parcel of blockheads." And the best that the author of the fifth Modern could say of the post-Revolutionary reports was that "though some of them, as Justice Shelley merrily said, might be compared to Banbury cheeses, whose superfluities being pared away there would not be enough left to bait what my Lord Hale called the mouse-trap of the law; yet, to speak still in the language of a judge, 'I think the meanest of them may, like the little birds, add something to the building of the eagle's nest.'"

The most superficial examination of the contents of these volumes reveals the defects which justify such an arraignment. These reports, bearing the names of various judges, sergeants, prothonotaries and lawyers of less character, had their beginnings in every instance in the needs of actual practice. A lawyer would preserve in his common-place book notes of the cases cited by him in an argument, and this would be followed by a memorandum of the case in which they were used. He would also add, from time to time, other cases which he happened to hear or notes of which were shown to him by his professional brethren. If he subsequently attained a judicial station he would of course take notes of the cases argued before him, and, very likely, of cases cited in argument with which he was not already familiar. Such notes were prepared for personal use and without any thought of publication. Their subsequent publication was almost always posthumous. With the exception of Plowden, Coke, Saunders, and a few others, very few of the reports prior to the Revolution were published in the lifetime of their authors. Bulstrode, Cromwell's chief justice of Wales, was the first lawyer after Coke to publish his own reports. Obviously these manuscripts would vary in accuracy and value with the capacity of their authors. The note-book of a reputable judge, containing a report of litigation over which he presided, would possess all the elements of authenticity. But it also happened that lawyers of inferior acquirements, often mere students, employed their leisure in accumulating private collections of cases. Lord Mansfield relates that the reporter Barnardiston often slumbered over his note-book, and wags in the rear would scribble nonsense in it. Whatever the merits of an original manuscript might be, in passing from hand to hand, for the purpose of copying, additions were made by various hands. When, therefore, a manuscript was finally published it would often be difficult, if not impossible, to ascertain how much of it, if any, represented first-hand work. The contents of New Benloe and

Anderson extend over a period of one hundred and thirty years; Owen, Saville, Brownlow, Gouldsborough, Popham, and Lane, from fifty to one hundred years. Down to Hanoverian times the same cases are constantly reported by different persons, sometimes by half a dozen at once. By comparing them some idea may be obtained of the careless and slovenly methods of copying in vogue. For instance, the case of Clerk *v.* Day is reported by Croke,[1] by Owen,[2] by Moore,[3] and is also printed in Rolle's Abridgment; yet Lord Raymond asserts that it is not accurately reported in any of the books named, even as to the names of the parties.[4] Sometimes an author purports to give a case in full; at other times only in part; and to obtain the whole case the scattered fragments must be traced and put together. Thus the leading case of Manby *v.* Scott is reported in a way in Siderfin and in Levinz;[5] the opinion by Sir Orlando Bridgman may be found in Bridgman's collection of his own opinions, Justice Hyde's in 1 Modern, Chief Baron Hale's in Bacon's Abridgment, while parts of the case are scattered through Keble and Modern. One reporter will give the decision in the form of an abstract principle, another will state the facts upon which it was founded, a third will report the arguments of counsel, while a fourth may supply parts omitted by the others.

There were, moreover, other elements of confusion. Many manuscripts belonging to lawyers of high standing were published without authority and consequently without any revision. In at least two instances the manuscripts were stolen by servants and published as mere bookseller's speculations, with various additions from unknown sources. At best, posthumous publication, involving the deciphering of a strange manuscript, was attended with serious risks. An original manuscript was apt to be vitiated long before publication by repeated and careless copying. The editor of Dyer's reports refers to numerous errors "religiously preserved and carried on without the least attention to sense." Then many of these volumes are translations of Latin or French originals never published. In cases like Dyer, the first eleven parts of Coke, Yelverton, Saunders, and a few others, where the work was first printed in the original and subsequently translated, we have means of verification. But during the Commonwealth period, English having been made the court language, and reports in Latin and

[1] Cro. Eliz. 313.
[2] Page 148.
[3] Page 593.
[4] Fitzgibbon 24, 25; Fortescue 77.
[5] 1 Siderfin 109; 1 Levinz 4.

French prohibited, editors at once translated their manuscripts into English. Thus Croke, Winch, Popham, Owen, Leonard, Hetley, J. Bridgman, and some others, though originally written in Latin or French, first appear in English. Considering the cryptographic abbreviations which abounded in the handwriting of former times, the fact that the original manuscript, having been designed for private use, was likely to be filled with symbols understood by the writer alone, and the fact that the translator was exempt from comparison, the probable extent of the errors and imperfections is apparent. "I have taken upon me," says Croke's editor, "the resolution and task of extracting and extricating these reports out of their dark originals, they being written in so small and close a hand that I may truly say they are *folia sybillina*, as difficult as excellent." A score or more of the early reports have never been translated out of the Latin or French in which they were originally published.

The classical repositories of the old common law are the reports of Plowden and Coke. Their work maintained preëminence for more than a century, and exercised a profound influence upon early English law. Plowden was our first private reporter, and in many respects his work has not been surpassed by any of his successors. "The Commentaries or Reports of Edward Plowden of the Inner Temple, An Apprentice of the Common Law," extend from Edward III. to Elizabeth (1550–1580). They are the result of actual attendance in court, and are among the few old reports prepared for the press and published under the direction of their author. Plowden states in his preface, under date of 1571, the circumstances under which the work was undertaken: —

"When I first entered upon the study of the law I resolved upon two things which I then purposed earnestly to pursue. The first was to be present at, and to give diligent attention to, the debates in law, and particularly to the arguments of those who were men of the greatest note and reputation for learning. The second was to commit to writing what I heard, which seemed to me to be much better than to rely upon treacherous memory, which often deceives its master. These two resolutions I pursued effectually by a constant attention at the moots and lectures, and at all places in court and chancery to which I might have access where matters at law were argued and debated. And finding that I reaped much profit and instruction by this practice, I became at last disposed to report the arguments and judgments made and given in the king's courts upon demurrers in law, as abounding more copiously in matters of improvement, and being more capable of affecting the judg-

ment, than arguments on other occasions. Upon this I undertook first one case and then another, by which means I at last accumulated a good volume. And this work I originally entered upon with a view to my own private instruction only, without the least thought or intention of letting it appear in print."

Although often solicited by "some of the judges and other grave and learned men" who had seen his work to allow it to be made public, he modestly declined, "being conscious of the simpleness of his understanding and of the small spark of reason with which he was endued." He was at length led to alter his resolution by the following circumstances: —

"Having lent my said book to a few of my intimate friends, at their special instance and request, and but for a short time, their clerks and others knowing thereof got the books into their hands and made such expedition, by writing day and night, that in a short time they had transcribed a great number of the cases, contrary to my own knowledge and intent, or of those to whom I had lent the book; which copies at last came to the hands of some of the printers, who intended (as I was informed) to make a profit of them by publishing them. But the cases being transcribed by clerks and other ignorant persons who did not perfectly understand the matter, the copies were very corrupt, for in some places a whole line was omitted, and in others one word was put for another, which entirely changed the sense, and again in other places spaces were left where the writers did not understand the words, and divers other errors and defects there were which, if the copies so taken had been printed, would have greatly defaced the work and have been a discredit to me."

Plowden took infinite pains to render his work accurate and complete.

"In almost all of the cases, before they came to be argued, I had copies of the records, and took pains to study the points of law arising thereupon, so that oftentimes I was so much master of them that if I had been put to it I was ready to have argued when the first man began; and by this method I was more prepared to understand and retain the arguments and the causes of the judgments. And besides this, after I had drawn out my report at large, and before I had entered it into my book, I shewed such cases and arguments as seemed to me to be the most difficult and to require the greatest memory, to some of the judges or sergeants who argued in them, in order to have their opinion of the sincerity and truth of the report, which, being perused by them, I entered it into my book."

The result of such care is a report which presents with absolute clearness the points at issue, the arguments urged by the respec-

tive counsel, and the grounds of the judgment rendered by the court. Moreover, in publishing his work he placed a title at the head of each case, together with the date, the nature of the action, the names of the parties, etc. Beyond their excellent form and arrangement the great authority of Plowden's cases has a substantial basis. Many of the early reports, particularly the Year Books, contain the off-hand opinions of the judges upon motions; whereas all of Plowden's cases are "upon points of law tried and debated upon demurrers or special verdicts, copies whereof were delivered to the judges, who studied and considered them, and after mature deliberation gave judgment thereon." This fact also explains the great esteem in which Plowden's work has always been held as a book of entries.

Although Plowden called his work a commentary he was sparing in comment. When he undertakes a full discussion of a topic[1] he is very instructive; but he is always careful to separate his own views from the opinion of the court. His work is therefore really a report, although called a commentary. It remained for Sir Edward Coke to publish under the title of reports an elaborate commentary, in which the opinion of the court was often edited in accordance with the reporter's personal views.

The estimation in which Coke's reports were held by his contemporaries is indicated by their citation simply as "The Reports." While they were being issued no others appeared, "as it became all the rest of the lawyers to be silent whilst their oracle was speaking."[2] Coke began as early as 1580 to take notes of the legal transactions of the day, perfecting his information during hours of leisure. At length in 1600 he published his first volume, and shortly afterward, while he was attorney-general, the second and third. In 1603 the fourth part appeared, and the fifth about two years later. The remaining six parts were issued between the years 1607 and 1616, while he was successively chief justice of the Common Pleas and the King's Bench. These eleven parts or volumes constituted all that were published during his lifetime, and, apparently, all that were designed for publication. In 1634, however, twenty-one years after his death, a twelfth part was printed, and about three years later the thirteenth and last. These last two parts had been left by Coke in an unfinished state, and are inferior in authority to their predecessors.[3] Beside reports of

[1] As in his note on equity in Eyston *v.* Studd, ii. 465. [2] 5 Mod. viii.
[3] Hob. 300; Bulst. preface; 10 B. & C. 275.

cases much more loosely stated than in the prior reports, they contain accounts of conferences in the Privy Council, of consultations among the judges, and notes of legal points in general. The fact that they deal largely with questions of prerogative is probably the reason why they were not published in the author's lifetime. The earlier parts had given offense to James I., who deemed certain doctrines contained therein injurious to his royal authority. Coke's ultimate suspension from judicial office was accompanied by a command to consider and revise his reports, and his "scornful treatment of this order" in reporting only five trivial errors, was one of the reasons given for his subsequent dismissal.

In method Coke's reports are unique. They are not reports at all in the strict sense of the term. He says in his preface that he prepared these reports not merely for citation in court but also for educational purposes; and to a large extent, though just how far it is impossible to say, they contain his own statement of the law. Accordingly, they are much more elaborate than other early reports. Since, to Coke's mind, the art of pleading was the necessary foundation of all accurate knowledge of the common law, the pleadings are fully set out, not only for a proper understanding of the case but for the instruction of students as well. The reasons of the judgment are thrown into the form of general propositions of law, in the exposition of which earlier cases are collected with laborious care. Hence the report of each case forms a treatise on the point at issue. The arrangement of the cases, moreover, is not chronological, but more or less according to subjects.

Coke's reports are therefore summary in character. Without tracing any form of argument, he usually gives a statement of the case, following with the substance of all that was said in argument, and concluding with the resolutions of the court. He describes his method in Calvin's case:[1] —

"And now that I have taken upon myself to make a report of their arguments, I ought to do the same as fully, truly, and sincerely as possibly I can; howbeit, seeing that almost every judge had in the course of his argument a particular method, and I must only hold myself to one, I shall give no just offense to any if I challenge that which of right is due to every reporter, that is, to reduce the sum and effect of all to such a method as, upon consideration had of all the arguments, the reporter himself thinketh to be fittest and clearest for the right understanding of the true reason and causes of the judgment and resolution of the case in question."

[1] 8 Rep. 4 a.

His method of presenting what was decided is, however, disorderly in the extreme. Throughout all parts of the report, but particularly in giving the resolutions of the judges, his inexhaustible learning breaks forth; "one case is followed by another, quotation leads to quotation, illustration opens to further illustration, and successive inference is made the basis for new conclusion; every part, moreover, being laden with conclusions and exceptions, or protected in a labyrinth of parentheses, until order, precision, and often clearness itself is lost in the perplexing though imposing array." How animating, therefore, is his assurance to the reader that "although he may not, at any one time, reach the meaning of his author, yet at some other time and in some other place his doubts will be cleared."[1]

In connection with his habit of editing the conclusions of the court in accordance with his own views of the law, it may be added that Coke is not always accurate. Sometimes, as in Gage's case,[2] he gives a wrong account of the actual decision. Moreover the authorities which he cites do not always sustain his conclusions.[3] This fault, indeed, runs through all his writings and has carried in its train some unfortunate consequences. For instance, in Pinnell's case, by giving a mere dictum the form and effect of an actual decision upon a point in issue he fixed upon English law the rule that a creditor who, on the day his debt falls due, accepts a smaller sum in satisfaction of the whole, but executes no deed of acquittance, is not bound by his agreement.[4] The result has been, as Sir George Jessel ironically said in Couldery *v.* Bartrum,[5] that according to English law "a creditor might accept anything in satisfaction of a debt except a less amount of money. He might take a horse or a canary or a tomtit if he chose, and that was accord and satisfaction; but by a most extraordinary peculiarity of English law he could not take 19s 6d in the pound." Yet the House of Lords in 1884 held that the error was so firmly established that it did not come within their province to correct it. It may be added in further elucidation of the effect of such errors that the resolution of the judges in Pinnell's case as reported by Coke is not as absurd as some of the distinctions that have been

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[1] See Sugden on Powers 23, n.

[2] 5 Rep. 45 b; see 1 Salk. 53, and Will. 569.

[3] See Jones on Bailments 41, as to Southcote's case, 4 Rep. 83 b, and 1 Inst. 89 a; Stephen's Hist. Crim. Law, ii. 205.

[4] 5 Rep. 117 a; Co. Litt. 212 b; see Foakes *v.* Beer, 9 App. Cas. 605.

[5] 19 Ch. Div. 399.

engrafted upon it from time to time by judges who sought to limit the operation of what they believed to be an erroneous principle. Many questionable doctrines have in this way become firmly imbedded in the law. "I am afraid," said Chief Justice Best, "we should get rid of a good deal of what is considered law in Westminster Hall if what Lord Coke says without authority is not law."[1] Still, it is less true now than formerly that his works have, as Blackstone said, "an intrinsic authority in courts of justice, and do not entirely depend on the strength of their quotations from older authorities."

The basis of the vast reputation that Coke's reports enjoyed for centuries is readily apprehended. The only other reports available in his time were Dyer, Plowden, and parts of the Year Books; in the preface to the third part of his reports Coke gives their number as fifteen. Coke's extensive reports, covering a period of nearly forty years, not only give a fairly complete account of the law during the reigns of Elizabeth and James I., but they made accessible most of the older learning which till then had to be laboriously gathered from the Year Books and the unsatisfactory abridgments. Lord Bacon admitted no more than the bare truth when he said, "To give every man his due, had it not been for Sir Edward Coke's reports (which, though they may have errors and some peremptory and judicial resolutions more than are warranted, yet they contain infinite good decisions and rulings over cases), the law by this time had been almost like a ship without ballast, for that the cases of modern experience are fled from those that are adjudged and ruled in former time." Moreover, his careless and disorderly mixture of things great and small is balanced by the grasp of his intellect and the often inimitable effect of his quaint style.[2]

There are several other brief collections of cases from Tudor times, chief among which is Dyer's (1513–82). Sir James Dyer presided in the Court of Common Pleas for more than twenty years, and his accurate, concise, and business-like notes have always been regarded as among the best of their class. Although these notes were taken by Dyer for his own use and without any thought of publication, they were edited from a genuine manuscript by his nephew, and were subsequently annotated by Chief Justice Treby. Moore's reports (1521–1621), the work of Sir

[1] See also 17 Pick. 9.

[2] For a detailed examination of Coke's reports see Wallace's scholarly work on The Reporters 165 *et seq.*

Francis Moore, the supposed author of the Statute of Uses and inventor of the conveyance known as lease and release, were edited from a genuine manuscript by Sir Geoffrey Palmer, a distinguished lawyer of the Restoration, with the assent of Sir Mathew Hale, who married Moore's granddaughter. Anderson's Common Pleas Reports (1534–1604), the work of a prominent judge, are quite full and circumstantial for their time. Jenkins's so-called "Centuries," a brief but accurate collection of notes of Exchequer decisions, contains some cases as early as the thirteenth century. Leonard's reports (1540–1613), dealing mostly with cases subsequent to the reign of Henry VIII., have been commended by Nottingham and St. Leonards. Benloe and Dalison (1486–1580), Keilway (1496–1531), Brooke (1515–58), and Benloe (1531–1628) are all of secondary value. The only connection between Benloe and Dalison is the fact that they were edited by John Rowe. The later Benloe, which is mainly a compilation, is often called New Benloe, to distinguish it from the former; Brooke is likewise called Little Brooke to distinguish it from the same author's abridgment. Although Keilway's reports are of uncertain value, they record many cases not included in other reports of this period. The volume bearing the name of Noy (1559–1649) is a collection of mere scraps of cases and dicta, with only an occasional statement of the facts involved. Noy was attorney-general under Charles I., and one of the six persons recommended by Bacon in connection with his plan for official reporting as being "learned and diligent and conversant in reports and records." This volume was probably an unauthorized transcript from his note-book. The reports of Brownlow and Gouldsborough (1569–1625) are the work of two prothonotaries of the Common Pleas; they are mostly practice cases. Owen (1556-1615), Goldbolt (1575–1638), Saville (1580–94), and Popham (1592–1627) are of little if any value.

Many of the reports just mentioned extend into the seventeenth century. On the other hand, there are several reports dealing principally with the reign of the first two Stuarts, whose earlier cases date, like Coke's, from Elizabeth's reign. Of these the reports of Sir George Croke, edited by his son-in-law, Sir Harbottle Grimston, master of the rolls, are of most general interest and value. Croke served with credit in a judicial capacity until his eightieth year, when, upon his petition that he might "retire himself and expect God's pleasure," Charles I. granted him a pension. His work is of the first importance whenever he reports a case fully; but the value of his reports as a whole is affected by the fact

that he gives not only cases in which he participated or which he heard, but many others not reported elsewhere, which were merely cited in argument or which were shown to him. However, when he takes a case at second-hand he generally states somewhere that he does so, and the discredit into which some of his work has fallen is due to some extent to his practice of printing a case in instalments and the consequent difficulty of reading him aright. As a rule his reports are too brief to be perfectly clear. These reports are always cited by the names of the sovereigns in whose reigns the cases were determined.

In addition to the standard authorities, Coke and Croke, the first half of the reign of James I. is covered by Yelverton (1603–13), the second half by Rolle (1614–25), and the whole reign by Hobart (1603–25). Yelverton's small volume ranks with the best of the old collections of notes. Yelverton was one of the ablest lawyers of his time, and although his notes are not very technically presented, being prepared for his own use, they are known to be authentic. Rolle's report is a genuine work by Cromwell's able chief justice. Hobart's collection, published several years after the Chief Justice's death by a careless editor, but improved in a subsequent edition by Lord Nottingham, was a standard work of its day. Yet these reports are still very defective in method and precision, and are replete with legal disquisitions which have not served in modern times to add to their usefulness. Hobart includes some cases from the Star Chamber. There are several minor reports of this reign: Davies (1604–12), Lane (1605–12), Ley (1608–29), Calthrop (1609–18), Bulstrode (1609–39), Hutton (1612–39), J. Bridgman (1613–21), Palmer (1619–29), and Winch (1621–25). Davies was a well-known poet and a friend of Selden and Ben Jonson. Ley prints some cases from the Court of Wards. Calthrop deals mainly with cases concerning the customs and liberties of London; Winch principally with declarations.

Beginning in the last years of James I., but dealing mainly with the succeeding reign, is the collection by Sir William Jones (1620–41). These are accurate reports, from a genuine manuscript, of cases decided during this distinguished judge's tenure of office. They are among the most interesting of the old reports. In this reign, also, is the volume bearing the name of Littleton (1626–32); but the cases were probably not reported by him. They are concerned largely with applications for prohibitions. Latch (1625–28), Hetley (1627–32), and March (1639–43) are of small importance. Clayton's assize reports (1631–51) throw some light

on early practice. Aleyn (1646–49) contains loose notes of cases decided during the last years of the reign of Charles I., when judicial proceedings were disturbed by the turbulence of the approaching civil war.

There are few reliable records of litigation during the Commonwealth period. Style's reports (1646–55), which were published by the author himself, are valuable as our sole record of the decisions of Rolle and Glyn, the able chief justices of the Commonwealth. Hardres, Exchequer reports (1655–69) cover part of this period. They were printed from a genuine manuscript, and give fair reports of the arguments, but very brief reports of the judicial opinions, which are usually by Sir Mathew Hale. Siderfin (1657–70), who gives some cases from this time, is of little consequence.

Within the first decade after the Restoration there are several new reports, extending for the most part over the remainder of the Stuart period. Chief among them is Saunders (1666–73), who is universally conceded to be the most accurate and valuable reporter of his age. His work is confined to the decisions of the King's Bench between the eighteenth and twenty-fourth years of the reign of Charles II. Saunders participated as counsel in most of the cases, and he reports them with admirable clearness. In general his reports resemble Plowden's ; but they are much more condensed. He gives the pleadings and entries at length, and follows in regular order with a concise statement of the points at issue, the arguments of counsel, and a clear statement of the grounds of the judgment. The work was subsequently enriched by the learned annotations of Sergeant Williams. Thomas Raymond's notes (1660–84) bear a good reputation. T. Jones (1667–85) and Ventris (1668–91) are of fair authority ; about Levinz (1660–96), and especially Keble (1661–79), opinion is conflicting. It is unfortunate that we have no better record than these volumes afford of Sir Mathew Hale's decisions. The manuscript of Freeman's notes (1670–1704) was stolen by a servant and published without authority.

The so-called Modern reports (1669–1732), which begin in the first decade after the Restoration and cover a period of more than sixty years, are of considerable importance when due allowance is made for certain serious limitations. This work, originally composed of five volumes, was formed by combining in a series the work of different hands. It was subsequently revised and remodeled by Leach, who published a definitive edition in twelve vol-

umes (1793–96). Leach made many improvements in the text; he corrected the headings, inserted the names of the judges at the beginning of each term, and modernized the references. In former editions a variety of cases without any names were often crowded together in such a confused mass as to be practically undistinguishable. Leach separated these cases under the title "Anonymous." Beside contributing many notes and references he added a large number of cases. As thus corrected the work was much improved; but the volumes are still wanting in accuracy and completeness, and, moreover, vary greatly in value. The second, sixth, and twelfth, for instance, have often been cited with commendation, while the reputation of the fourth, eighth, and eleventh is particularly bad. The arrangement of the contents of the work is disorderly and confusing in the extreme. The first two volumes, containing both law and equity cases, deal with the reign of Charles II.; the third mainly with the reign of James II.; the fourth and fifth, during William III.'s reign, and the sixth, during Anne's, are made up of decisions by Chief Justice Holt; volume seven completes Anne's reign and contains decisions of Chief Justices Hardwicke and Lee in the King's Bench from the sixth to the eighteenth years of George II.; volume eight contains King's Bench decisions from the eighth to the twelfth years of George I., during the service of Chief Justice Pratt; the ninth volume is made up entirely of chancery cases, containing Lord Chancellor Macclesfield's decrees from the eighth to the eleventh years of George I., and Hardwicke's from the tenth to the twenty-eighth years of George II.; the tenth, extending from the eighth year of Anne to the eleventh year of George I., is made up of decisions by Macclesfield in law and in chancery; the eleventh gives Holt's decisions during the first eight years of Anne's reign, and Chief Justice Pratt's from the fourth year of George I. to the fourth year of George II.; and the last volume is given to Holt's cases in the reign of William III. This collection of reports, notwithstanding its deficiencies, has perhaps been cited oftener in modern times than any other seventeenth century report. Many of the best known early cases are scattered through these volumes.

The inaccuracies of Shower (1678–94), who gives some good cases, have been somewhat remedied in subsequent editions. Some of Sir Orlando Bridgman's excellent opinions in the Common Pleas are preserved in the reports bearing his name (1660–67). Vaughan's reports (1665–74) from the same court deal principally with the labors of the judge of this name; Lutwyche (1683–1702)

also records some Common Pleas cases from the latter part of the seventeenth century. Among the minor reports of this time, beside J. Kelyng's brief collection of criminal cases (1662–69), are several of little if any value: Carter (1664–85), Comberbach (1685–99), and Carthew (1686–1701). Since almost all the cases printed by Skinner (1681–98) had appeared in prior reports this work is seldom cited.

Some of the ante-Revolutionary reports exhibit technical learning of a high order; but it must be admitted that they are not easy reading. The cumbersome system of feudal tenure, with which the vast proportion of the cases prior to the Restoration are concerned, was at best unpromising material.[1] After the Restora-

[1] Coke's work affords abundant examples of the verbose and pedantic judicial utterances of early times. On the other hand, Chief Justice Crewe's remarks on the honors of De Vere (W. Jones, 101) is one of the rare specimens of stately eloquence: "I have labored to make a covenant with myself that affection may not press upon judgment; for I suppose that there is no man that hath any apprehension of gentry and nobleness but his affection stands to the continuance of so noble a name and house, and would take hold of a twig or a twine thread to uphold it. And yet Time has his revolutions; there must be an end of all temporal things,—*finis rerum;* an end of names and dignities and whatsoever is terrene; and why not of De Vere? For where is Bohun? Where is Mowbray? Where is Mortimer? Nay, which is more and most of all, where is Plantagenet? They are entombed in the urns and sepulchres of mortality. And yet let the name and dignity of De Vere stand so long as it pleaseth God." The judges were particularly sententious in their use of analogy, as where Hobart contrasts the common and statute law by saying that "the statute is like a tyrant: where he comes he makes all things void; but the common law is like a nursing father, and makes void only that part where the fault is and leaves the rest." Biblical citations and analogies abound. One of the most curious instances of scriptural allusion is Lord Ellesmere's reference to the dissenting opinion of his two dissenting brethren in the case of the Post-nati: "The apostle Thomas doubted of the resurrection of the Lord Jesus Christ when all the rest of the apostles did firmly believe it; but this his doubting confirmed in the whole church the faith of the resurrection. The two learned and worthy judges who have doubted in this case, as they bear his name, so I doubt not but their doubting hath given occasion to cleare the doubt in others, and so to confirme in both the kingdomes, both for the present and the future, the truth of the judgment in this case." There is every evidence that these legal luminaries were devoid of a sense of humor. It has been suggested that Shakespeare derived part of the humorous colloquy between the grave-diggers in Hamlet from Chief Justice Dyer's serious discourse in Hales *v.* Petit, Plowden 262. Sir Thomas Bromley's diverting argument in Sharington *v.* Stratton, Plowden 303, upon the distinction between brotherly love and mere acquaintance as a sufficient consideration to raise a use in land, is a good specimen of the exhaustive ingenuity with which discussions were pursued at the bar. See, also, in the same volume, the report of the agreement between counsel, in the case of Clere *v.* Brook, 442, as to the basis of the preference of males to females in the law of descent. On rare occasions a reporter is moved to display his wit. "One Mr. Guye Faux, of the parish of Leathley, a cavalier, had a cause heard about a plunder upon Monday this week after dinner, and was well

tion the reports increase in interest. The radical reforms in the law of real property, and the slow but steady amelioration during the latter half of the seventeenth century of common law doctrines and procedure, in consequence of the interference of the chancellor, gradually brought within the purview of the common law remedial measures which had theretofore been recognized only in equity. For instance, the introduction in the reign of Charles II. of new trials with reference to the evidence, obviated recourse to equity in cases like that which had brought about the conflict between Coke and Ellesmere.

Although these early reports, with few exceptions, are now seldom cited in practical work, their historical value can hardly be overestimated. Reports that are almost worthless as judicial records often throw valuable side-lights upon early practice and procedure;[1] not infrequently they supply interesting illustrations of the social life of the time.[2]

The Revolution forms almost as distinctive an epoch in legal as

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in court, and damages a hundred pounds awarded, and he was found dead next morning, upon the conceit of it, as was supposed." (Clayton's Assize Cases 116.)

[1] One is struck by the interminable arguments. Plowden speaks of cases having "hung in argument eight, ten, and twelve terms." Considering the wide range of the arguments, the consumption of time must have been enormous. For instance, the case of Stowell *v.* Zouche, in Plowden, was argued twice in the Common Bench and then twice in the Exchequer Chamber before all the judges. Calvin's case, in Coke, was argued first at the King's Bench bar by counsel and then in the Exchequer Chamber, first by counsel and then by all the judges; it was afterward twice argued by counsel and then upon four successive days at the next term by all the judges, and thereafter, at another term, by all the judges on four successive days. It was not until Mansfield's time that this habit of reargument was suppressed.

Jury service in early times was plainly no sinecure. "And for that a certain box of preserved barbaries, and sugar called sugar candy, and sweet roots called liquorish" was found on one of the jurors in the consultation room he was fined twenty shillings (Plowden 518). "The judge did put back the jury twice because they offered their verdict contrary to their evidence, as he held, and set a hundred pounds fine upon one of the jury who had departed from his companions; but after, upon examination, it was taken off again, for that it did appear it was only by reason of the crowd and some of his fellows were always with him." (Clayton's Assize Cases 31.) The case of King *v.* Buckenham, Keble, 751, illustrates the severity with which early courts protected their dignity.

It is apparent from an entry in Birks *v.* Tippetts, 1 Saunders, 33 b, that certain professional characteristics do not change materially from century to century: "Twisden, Justice, interrupted Saunders, and said to him, 'What makes you labor so? The court is of your opinion and the matter is clear.'"

[2] For instance, pages 266 to 298 of W. Jones's reports contain "notes taken at a justice seat in the forest at Windsor," forming a quaint record of litigation between Lord Lovelace, Sir Charles Howard, and others, in the time of Charles I., concerning their "deeres and dogges."

in political history. In the passing of the despotism of the Stuarts, and the consequent acknowledgment and definition of civil and political liberty, the judiciary acquired a stability which has never been shaken. The judges have ever since held their office during good behavior instead of at the sovereign's pleasure, and their removal could only be effected by the crown upon the address of both houses of Parliament. The turning point in judicial affairs at the Revolution is clearly marked. Of the notorious instruments of usurpation and violence, the dethroned king's chancellor was in the Tower and his chief justice in Newgate. On the other hand, the new era was opened by the appointment of one of the ablest and best of chief justices, Sir John Holt, to succeed Wright, one of the worst; and from this time no address has ever been voted by either house of Parliament with a view to the displacement of an English judge.

From the Revolution the reports increase in value and importance; they deal more with modern conditions. The development of commerce, and the consequent variety and importance of personal property and of contracts, the growth of maritime jurisprudence, the development of equity, and the general introduction of more liberal and enlightened views of justice and public policy, all combined to give a new tone and impulse to the common law.

It is a great misfortune that the labors of the distinguished jurist whose character and career exemplified the best features of the new era should have been so inadequately preserved. Reference has already been made to the reports of Chief Justice Holt's cases in Modern. Holt's term is covered, in addition, by Salkeld (1689–1712), Lord Raymond (1694–1734), and Comyns (1695–1741). The first two volumes of Salkeld (the third volume being a mere collection of detached notes of cases from other reports) were published under the supervision of Lord Hardwicke, and enjoy a good reputation; yet the reports are too brief to be clear, and many of the cases are taken at second hand. Lord Raymond's reports of Holt's decisions are of excellent authority. After Holt's death Raymond seems to have relaxed his efforts. His third volume contains the pleadings at large. Comyn's reports are posthumous, and are not as reputable as his digest. In addition to the volumes above mentioned, some of Holt's cases may be found in Carthew (1686–1700), and Levinz (1660–97), both of poor reputation, and in the appendix to Kelyng's criminal cases. The volume entitled Temp. Holt (1688–1710) is mainly an abridgment of Holt's decisions by Giles Jacob, Pope's "blunderbus of the law."

During the first dozen years of George II.'s reign we have several new reports: Barnardiston (1726–35), Fitzgibbon (1727–32), W. Kelynge (1731–36), Barnes (1732–60), Ridgeway (1733–37), Lee (1733–38), Cunningham (1734–36), Andrews (1737–39), and Willes (1737–60), — most of them, unfortunately, of inferior workmanship. Most of the cases in Cunningham, Ridgeway, 7th Modern, and Lee's Cases Temp. Hardwicke, are apparently all taken from the same manuscript; yet they are our main reliance for Hardwicke's services in the King's Bench.

Fortescue (1695–1738) and Strange (1715–48) are of fair repute. Fortescue is partial to his own opinions, which are characterized by more solicitude of taste than power of thought. Strange was master of the rolls and the colleague of Hardwicke, some of whose arguments at the bar and common law decisions he reports. His reports are quite modern in form. Cooke's Common Pleas reports, which are frequently cited, are mostly practice cases. Gilbert's Cases in Common Law and Equity (containing, however, no equity cases) cover the term of Chief Justice Parker. Bunbury (1713–42) and Parker (1743–67) together form a consecutive chronicle of the Exchequer under George I., George II., and the first seven years of George III. Bunbury's reports are mere notes, but they were taken in court by Bunbury himself, and were afterward edited by his son-in-law, Sergeant Wilson.

Willes's reports of his own opinions as chief justice of the Common Pleas are highly authoritative. Although published after Willes's death, they appear to have been carefully prepared by this learned judge, and they were afterward revised and edited by Durnford, the editor of the Term Reports. This volume also contains some cases in the House of Lords. Willes's excellent reports are little if at all superior to those prepared by Wilson (1743–74). This very accurate work records the labors of such distinguished judges as Wilmot, Willes, and De Grey, and is of great value. Sir William Blackstone's miscellaneous collection of cases (1746–79), extending over a period of thirty-three years, do not display the care that we should expect from the celebrated commentator. Wilmot's opinions (1757–70) contain decisions by this learned judge not reported elsewhere. Foster's small collection of criminal cases (1743–61), the work of a very eminent authority in criminal law, is of the highest authority as far as it goes. The collection of notes published in Kenyon's name (1753–60) came from a genuine manuscript, but was probably not designed for publication.

Burrow's reports (1757–71), beginning in the year following Mansfield's appointment as chief justice of the King's Bench and just prior to the accession of George III., mark an epoch in law reporting. Burrow was led to publish his work by the same circumstances that had overcome Plowden's modesty two centuries before. When it became known that he had for many years preserved some account of the decisions of the courts, he was subjected, he says, to "continual interruption and even persecution by incessant application for searches into my notes, for transcripts of them, sometimes for the note-books themselves (not always returned without trouble and solicitation), not to mention," he feelingly adds, "frequent conversations upon very dry and uninteresting subjects, which my consulters were paid for considering, but I had no sort of concern in." Burrow's published reports date only from the time of his appointment as master of the crown office, when personal charge of the court records and regular attendance in court gave him superior opportunities to render his work accurate and complete. Beside their substantial accuracy, these reports are characterized by clearness of statement and lucid arrangement of the materials of a case. Burrow was the first reporter to appreciate the advantage of prefixing to the report of each case a statement of the facts and issues separate from the opinion of the court, and following in regular order with the arguments, the opinions of the judges, and the judgment of the court. As he did not write short-hand, the opinions of the judges are not given in the exact language in which they were delivered; nor were they revised by the judges. The consequent limitations of all such reporting is analyzed by Burrow in terms which should always be borne in mind in citing the early reports.[1]

"I do not take my notes in short-hand. I do not always take down the restrictions with which the speaker may qualify a proposition to guard against its being understood universally, or in too large a sense, and therefore I caution the reader always to imply the exception which ought to be made when I report such propositions as falling from the judges. I watch the sense rather than the words, and therefore may often use some of my own. If I chance not fully to understand the subject, I can then only attend to the words, and must in such cases be liable to mistakes. If I do not happen to know the authorities shortly alluded to, I must be at a loss to comprehend (so as to take down with accuracy and precision) the use made of them. Unavoidable inattention and in-

[1] It has always been the custom among English judges to deliver their opinions orally. Among the civilians I believe written opinions are the rule.

terruptions must occasion chasms, want of connection, and confusion in many parts; which must be patched up and connected by memory, guess, or invention, or those passages totally struck out which are so inextricably puzzled, in the original rough note, that no glimpse of their meaning remains to be seen."

"I pledge my character and credit," he says in conclusion, "only that the case and judgment and the outlines of the ground or reason of decision are right." Their accuracy to this extent has never been questioned.

These reports, of the utmost value in themselves as a record of the services of Mansfield, Foster, Wilmot, and Yates, exercised, moreover, a most beneficial influence upon subsequent reporting. Burrow's immediate successors, Cowper (1774–78) and Douglas (1778–84), who give a consecutive chronicle of Mansfield's work from 1774 to the beginning of the Term Reports, follow the same plan and are of similar excellence. Although Burrow had something to say of his vocation, Douglas's reports contain the first deliberate discussion of the reporter's art. "My utmost aim will be attained," he says at the close of his preface, "if I shall be found to have merited in any degree the humble praise of useful accuracy." Such praise he unquestionably deserves. He edited the opinions of the judges as his predecessors had done, but his statement of the facts, pleadings, and arguments is more concise than Burrow's, and his work as a whole is less scholastic and technical.

Substantial accuracy and a uniform arrangement of the materials of a case having been attained, the next step in the progress of reporting was the prompt and regular publications of judicial decisions from term to term. This was accomplished in the King's Bench with the Term Reports, edited by Durnford and East, which were originally published in parts at the end of each term of court. From this time forward the proceedings of the King's Bench have been regularly and systematically reported. Until 1865 reporting was carried on by private enterprise in each court separately. It often happened that there was more than one reporter from the same court; but some one reporter was understood to be specially authorized by the judges and to have an exclusive, or at least prior, claim to the opinions of the judges as settled and revised by them. Some of the most distinguished of modern English judges, such as Alderson, Cresswell and Blackburn, served an early apprenticeship in reporting, and we have in consequence thoroughly reliable reports of the labors of those great jurists by whom the common law was developed and applied to the needs of modern times.

The Term Reports (1785–1800) cover the term of Chief Justice Kenyon, when Ashhurst, Buller and Lawrence were among the puisnes. The services of Lord Ellenborough and his associates, Lawrence and Bayley, are recorded by East (1801–12) and Maule and Selwyn (1813–17). Barnewall, in association successively with Alderson, Cresswell and Adolphus, reports the decisions of this court from 1817 to 1834, when Lord Tenterden presided over such puisnes as Bayley, Holroyd and Littledale.

The legal reforms contemporaneous with the Reform Bill of 1832 were instrumental in effecting some important changes in the relative value of the different reports. By the Uniformity of Procedure Act the concurrent jurisdiction of the three superior courts of common law was officially established. At the same time, the Exchequer Chamber was reorganized as a regular court of appeal from the three common law courts. The decisions of this appellate tribunal, which was composed on appeals from one court of the judges of the other two, were thereafter included in the reports of the court from which the appeal was taken; and this interchange of judges tended to equalize the standing of the three courts. Aside from this fact, moreover, there was a noticeable revival in the Common Pleas and Exchequer in this period.

Brief reference has already been made to some of the eighteen volumes of decisions of the Court of Common Pleas prior to 1785, chief among which were the individual collections of Chief Justices Orlando Bridgman, Vaughan and John Willes. This court, although a closed court (*i. e.* only sergeants could argue cases there) until far into the nineteenth century, became very efficient in the last decade of the eighteenth century through the services of several able lawyers who sat on this bench for short periods on their way to scenes of more distinguished labor. The excellent reports of Henry Blackstone (1788–96), recording the services of Loughborough, Eyre, Lawrence, Buller and others, are equal to the best of the King's Bench reports. From this time the proceedings of the Common Pleas have been regularly reported. But after the retirement of the judges just named the court declined in authority. This falling off is observable during the period covered by Bosanquet and Puller (1796–1807). Taunton's reports (1808–19) as a whole have never been very highly esteemed. The Common Pleas probably reached its lowest standing in the first five volumes of Bingham's reports. But the reputation of the court rose rapidly under Chief Justice Tindal (1829–46). The services of this eminent

judge, together with his associates, Bosanquet, Maule, and Cresswell, have given deserved repute to the later volumes of Bingham and the reports of Manning and Granger (1840–44). The two series of Common Bench reports (1845–65) represent the highest standard attained by this court. These thirty-nine volumes (particularly the last twenty-five) may be numbered among the classical repositories of the common law, recording as they do the distinguished labors of Jervis, Maule, Cresswell, Vaughan Williams, Willes, Cockburn, Erle and Byles, and the decisions of the Exchequer Chamber on appeal.

Five small volumes comprise our record of the Court of Exchequer prior to 1792. During all this time the Exchequer was hardly regarded as a superior court. Sir Mathew Hale lent distinction to the court after the Restoration, but it was not until far into the nineteenth century that it ranked on an equality with the other two common law courts. The twenty volumes of reports of its proceedings between 1785 and 1830, mostly by Messrs. Anstruther and Price, are seldom cited. Lord Lyndhurst's acceptance of the chief baronetcy in 1831, after having held the chancellorship, attracted some attention to the court, but it was not until Sir James Parke took his seat upon this bench that its reputation was assured. During the period of Baron Parke's service (1834–56) the Exchequer exercised an almost dominant authority. The twenty-seven volumes of reports by Messrs. Crompton, Meeson, and Welsby (Crompton and others, 1830–36; Meeson and Welsby 1836–47; Exchequer Reports, 1847–56), containing the decisions of Parke, Alderson, Pollock, Rolfe and Martin, together with the decisions of the Exchequer Chamber on appeal, have always been highly esteemed for their vast, though for the most part very technical, learning. During the next decade the court, as reported by Hurlstone, was not so effective, in consequence of the habitual conflict of opinion among the barons. Of a bench including Pollock, Martin, Bramwell and Channel, Bramwell was easily the most distinguished.

Notwithstanding the rapid rise in authority of the Common Pleas and Exchequer toward the middle of the last century, the King's Bench, if it failed to maintain its former preëminence, sustained at all events a corresponding standard of excellence. As a record of the labors of Denman, Littledale, Patteson, and the early services of Coleridge, Wightman, Erle and Campbell, the two series of reports by Adolphus and Ellis (1834–52) have always been held in high esteem. The court attained its highest stand-

ing, however, during the period from 1852 to 1865 under Campbell, Coleridge, Wightman, Erle, Cockburn and Blackburn. This period is reported by Messrs. Ellis, Blackburn, Best and Smith.

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(*To be continued.*)